IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 35852 of 2004(R)

PETITIONER:

NANDAKUMAR.S. PART TIME SWEEPER,
PERUNKADAVILA GRAMA PANCHAYATH, PERUNKADAVILA,
THIRUVANANTHAPURAM.

BY ADV. SRI.P.K.SURESH KUMAR
SRI.K.P.SUDHEER

RESPONDENTS:
----

1. THE STATE OF KERALA, REP. BY THE
SECRETARY, DEPARTMENT OF LOCAL ADMINISTRATION,
THIRUVANANTHAPURAM.

2. THE PERUNKADAVILA GRAMA PANCHAYATH,
REP. BY ITS SECRETARY, PERUNKADAVILA,
THIRUVANANTHAPURAM.

3. J.SUBHADRAKUTTY AMMA, BALAVADI TEACHER,
PERUNKADAVILA, THIRUVANANTHAPURAM.

BY ADVS. SRI.RAM MOHAN.G. --- R3
GOVERNMENT PLEADER SRI. P.NANDAKUMAR
SRI.SUMAN CHAKRAVARTHY --- R2
SRI.G.P.SHINOD
SRI.MANU V.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 35852/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE REPRESENTATION DT. 30/6/2004 BY THE PETITIONER BEFORE THE R2.

EXT.P2. COPY OF THE ORDER DT. 6/12/2004 BY R1.

EXT.P3. COPY OF THE RESOLUTION DT. 27/2/2001 OF THE R2.

EXT.P3. COPY OF THE RESOLUTION NO. VII DT. 22/09/2006 BY R2 PANCHAYAT.

RESPONDENT'S EXHIBITS

EXT.R3A. COPY OF THE MEMO DT. 5/6/74.

EXT.R3B. COPY OF THE CERTIFICATE DT. 20/5/97 BY THE R2.

EXT.R3C. COPY OF THE RESOLUTION DT. 11/08/98 OF THE PERUMKADAVILA GARAMA PANCHAYAT COMMITTEE.

True copy

tga

K.BALAKRISHNAN NAIR, J.

W.P.(C) No.35852 of 2004-R

Dated this the 30th day of May, 2007

J U D G M E N T

The petitioner was a part time sweeper, attached to the second respondent Panchayat. He was working since 1-3-2001. While so, the Government issued Ext.P2 order dated 6-12-2004, directing to accommodate the third respondent in the petitioner's place. So, this writ petition was filed, challenging Ext.P2 and seeking consequential reliefs. During the pendency of the writ petition, the petitioner submits, the Panchayat has passed Ext.P3 resolution deciding to regularise him in service and has moved the Government for necessary approval. In view of the above position, the petitioner prays for quashing Ext.P2 and for a direction to the Government to consider the motion made by the Panchayat, for regularisation of his service.

2. The Government as well as the party respondent have filed counter affidavits, supporting Ext.P2.

3. In view of G.O.(P) 501/05 dated 25-11-2005 concerning the regularisation of part time sweepers, the petitioner has a right to be considered for regularisation in service. Ignoring that right, the Government sought to induct a third party, in his place. The same was

done without notice and hearing him. Therefore, Ext.P2 order is unsustainable in law. It is accordingly, quashed. The Panchayat has already moved the Government requesting sanction for regularisation of the petitioner. If the second respondent has not so far forwarded the resolution of the Panchayat, the same shall be forwarded to the first respondent, within one month from the date of production of a copy of this judgment. The first respondent shall pass orders on the claim of the petitioner for regularistioan in service, in the light of the relevant orders, within three months from the date of receipt of the proposals, from the Panchayat.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS